



# Department of Justice

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## **DUBLIN BUSINESSMAN PLEADS GUILTY TO EMBEZZLING MONEY FROM COMPANY PENSION PLAN**

COLUMBUS –Cliff A. Gallatin, 56, of Dublin, pleaded guilty in U.S. District Court to one count of embezzlement, admitting that he withheld more than \$120,000 from the paychecks of employees at American Systems Consulting, Inc. (ASCI) but did not deposit it in the employees' 401k plans.

Carter M. Stewart, United States Attorney for the Southern District of Ohio, James Vanderberg, Special Agent-in-Charge of the Chicago Regional Office of the U.S. Department of Labor, Office of Inspector General (DOL-OIG), and Paul C. Baumann, Regional Director, Cincinnati Regional Office, U.S. Department of Labor Employee Benefits Security Administration (EBSA) announced the plea entered today before U.S. Magistrate Judge Norah McCann King.

Gallatin owned and operated American Systems Consulting Incorporated (ASCI) in Dublin, Ohio, a now-defunct company that was in the information technology consulting and website hosting business. In 2003, ASCI established a 401(k) pension benefit plan that allowed employees who voluntarily elected to participate in the plan to have portions of their earnings withheld from their paychecks and deposited to the plan.

At the beginning of the plan and continuing for some time, ASCI 401(k) Plan participants' withheld earnings were not deposited to the plan in a timely manner. Ultimately, all deposits of participants' withheld earnings stopped.

According to a statement of facts read during the plea hearing, plan participants became frustrated because their withheld earnings were not being deposited to the ASCI 401(k) Plan. When participants voiced their concerns to Gallatin, he offered various justifications for his failure to fund the plan, including an explanation that ASCI was having cash flow problems and he would decide and prioritize where available money would go. Several employees were specifically troubled by what was perceived as Gallatin's expenditures on luxury automobiles and homes, golf course memberships, several watercrafts maintained at Lake Erie and at a lake in Central Ohio, and similar items, when their withheld earnings were not being deposited to their 401(k) Plan.

ASCI employees informed the United States Department of Labor that their contributions were being used for purposes other than funding their pension plan. Department of Labor investigators found that payroll deductions intended to be remitted to the ASCI 401(k) Profit Sharing Plan were instead held in the general account. The investigators also found that, during the timeframe January 2003 through June 2008, Cliff Gallatin prepared numerous checks made payable to himself from the ASCI general account, and deposited these checks into his private bank account. A series of these checks drawn during the period January 2006 through January

2007 were made payable to, "Cliff Gallatin – Loan Shareholder," and issued from the general account at times and in amounts similar to 401(k) Plan contributions that were withheld from ASCI employees' paychecks but were not remitted then to the plan.

In July 2008, Gallatin entered into a consent order and judgment in a civil action brought against him and others by the Secretary of the United States Department of Labor. In that civil case, Gallatin agreed to make restitution to the ASCI 401(k) Plan in the total amount of \$120,586.42, less contributions due to the plan from him and his spouse, for his failure to forward employee contributions and other monies to the plan.

"The defendant's guilty plea affirms our resolve to vigorously enforce the law to ensure that those who steal from contributory employee benefit plans are brought to justice," said Paul Baumann, Regional Director of the Employee Benefits Security Administration's Cincinnati Regional Office. "We will aggressively investigate plan theft under EBSA's Contributory Plans Criminal Project which targets those who prey on participants and beneficiaries of these plans."

Embezzlement is punishable by up to five years imprisonment and a fine of up to \$250,000. Senior U.S. District Judge James L. Graham will set a date for sentencing.

Stewart commended the joint investigation by the Department of Labor Employee Benefits Security Administration and the Department of Labor Office of Inspector General, and Assistant U.S. Attorney Dale E. Williams Jr., who is prosecuting the case.

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